UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THE ESTATE OF MR. JERRY LEE LITTIKEN,
       Plaintiff,

    v.   **Case No. 07-C-869**

HORIZON LEASING COMPANY, IEA, INC.,
SUSAN INSCHO NEWELL and GEORGE O NEWELL,
       Defendants.

ORDER

Plaintiff filed this case on September 27, 2007. Pursuant to Fed. R. Civ. P. 4(m) plaintiff had 120 days from filing within which to effect service of the complaint upon the defendant. That time period expired on January 25, 2008, yet the court docket does not reveal any proof of service. Plaintiff may have served defendants but not filed a proof of service with the court. This seems likely given that most defendants have appeared. But then, no defendant has responded to the complaint. More odd, on November 30, 2007, plaintiff filed a "Notice of Filing," addressed to defendants, noting that plaintiff had filed a motion for an enlargement of time and to stay proceedings. However, plaintiff has not filed any motion with the court.

Thus, it appears that either plaintiff has failed to effect service within the appropriate period, or defendants have failed to timely answer and plaintiff has failed to file a motion for default. The parties may believe that this action is stayed, but no one has asked the court to stay it. In any event, I may dismiss this case without prejudice on my own initiative either under Rule 4(m) and Civil L.R. 41.1 or under Civil L.R. 41.2 after giving twenty days notice to counsel. This order gives plaintiff that notice and will allow it a brief extension to secure

service, file a motion for default, or take such other action as may be appropriate to prosecute its case.

THEREFORE IT IS ORDERED that plaintiff has twenty (20) days from the date of this order (until March 23, 2008) within which to take appropriate action to prosecute its case, as described herein. Plaintiff is hereby put on notice that if it fails to comply with this order this case will be dismissed.

Dated at Milwaukee, Wisconsin, this 3 day of March, 2008.

/s_____
LYNN ADELMAN
District Judge